

REFERENCE TITLE: **misconduct involving weapons; public places**

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1243

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTION 13-3102, ARIZONA REVISED STATUTES; RELATING TO MISCONDUCT INVOLVING WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3102, Arizona Revised Statutes, is amended to
3 read:

4 13-3102. Misconduct involving weapons; defenses;
5 classification; definitions

6 A. A person commits misconduct involving weapons by knowingly:

7 1. Carrying a deadly weapon except a pocket knife concealed on his
8 person or within his immediate control in or on a means of transportation:

9 (a) In the furtherance of a serious offense as defined in section
10 13-706, a violent crime as defined in section 13-901.03 or any other
11 felony offense; or

12 (b) When contacted by a law enforcement officer and failing to
13 accurately answer the officer if the officer asks whether the person is
14 carrying a concealed deadly weapon; or

15 2. Carrying a deadly weapon except a pocket knife concealed on his
16 person or concealed within his immediate control in or on a means of
17 transportation if the person is under twenty-one years of age; or

18 3. Manufacturing, possessing, transporting, selling or transferring
19 a prohibited weapon, except that if the violation involves dry ice, a
20 person commits misconduct involving weapons by knowingly possessing the
21 dry ice with the intent to cause injury to or death of another person or
22 to cause damage to the property of another person; or

23 4. Possessing a deadly weapon or prohibited weapon if such person
24 is a prohibited possessor; or

25 5. Selling or transferring a deadly weapon to a prohibited
26 possessor; or

27 6. Defacing a deadly weapon; or

28 7. Possessing a defaced deadly weapon knowing the deadly weapon was
29 defaced; or

30 8. Using or possessing a deadly weapon during the commission of any
31 felony offense included in chapter 34 of this title; or

32 9. Discharging a firearm at an occupied structure in order to
33 assist, promote or further the interests of a criminal street gang, a
34 criminal syndicate or a racketeering enterprise; or

35 10. Unless specifically authorized by law, entering any public
36 establishment or attending any public event and carrying a deadly weapon
37 on his person after a reasonable request by the operator of the
38 establishment or the sponsor of the event or the sponsor's agent to remove
39 his weapon and place it in the custody of the operator of the
40 establishment or the sponsor of the event for temporary and secure storage
41 of the weapon pursuant to section 13-3102.01; or

42 11. Unless specifically authorized by law, entering an election
43 polling place on the day of any election carrying a deadly weapon; or

44 12. Possessing a deadly weapon on school grounds; or

1 13. Unless specifically authorized by law, entering a nuclear or
2 hydroelectric generating station carrying a deadly weapon on his person or
3 within the immediate control of any person; or

4 14. Supplying, selling or giving possession or control of a firearm
5 to another person if the person knows or has reason to know that the other
6 person would use the firearm in the commission of any felony; or

7 15. Using, possessing or exercising control over a deadly weapon in
8 furtherance of any act of terrorism as defined in section 13-2301 or
9 possessing or exercising control over a deadly weapon knowing or having
10 reason to know that it will be used to facilitate any act of terrorism as
11 defined in section 13-2301; or

12 16. Trafficking in weapons or explosives for financial gain in
13 order to assist, promote or further the interests of a criminal street
14 gang, a criminal syndicate or a racketeering enterprise.

15 B. Subsection A, paragraph 2 of this section shall not apply to:

16 1. A person in his dwelling, on his business premises or on real
17 property owned or leased by that person or that person's parent,
18 grandparent or legal guardian.

19 2. A member of the sheriff's volunteer posse or reserve
20 organization who has received and passed firearms training that is
21 approved by the Arizona peace officer standards and training board and who
22 is authorized by the sheriff to carry a concealed weapon pursuant to
23 section 11-441.

24 3. A firearm that is carried in:

25 (a) A manner where any portion of the firearm or holster in which
26 the firearm is carried is visible.

27 (b) A holster that is wholly or partially visible.

28 (c) A scabbard or case designed for carrying weapons that is wholly
29 or partially visible.

30 (d) Luggage.

31 (e) A case, holster, scabbard, pack or luggage that is carried
32 within a means of transportation or within a storage compartment, map
33 pocket, trunk or glove compartment of a means of transportation.

34 C. Subsection A, paragraphs 2, 3, 7, 10, 11, 12 and 13 of this
35 section shall not apply to:

36 1. A peace officer or any person summoned by any peace officer to
37 assist and while actually assisting in the performance of official duties;
38 or

39 2. A member of the military forces of the United States or of any
40 state of the United States in the performance of official duties; or

41 3. A warden, deputy warden, community correctional officer,
42 detention officer, special investigator or correctional officer of the
43 state department of corrections or the department of juvenile corrections;
44 or

1 4. A person specifically licensed, authorized or permitted pursuant
2 to a statute of this state or of the United States.

3 D. Subsection A, paragraph 10 of this section does not apply to an
4 elected or appointed judicial officer in the court facility where the
5 judicial officer works if the judicial officer has demonstrated competence
6 with a firearm as prescribed in section 13-3112, subsection N, except that
7 the judicial officer shall comply with any rule or policy adopted by the
8 presiding judge of the superior court while in the court facility. For
9 the purposes of this subsection, appointed judicial officer does not
10 include a hearing officer or a judicial officer pro tempore ~~that~~ WHO is
11 not a full-time officer.

12 E. Subsection A, paragraphs 3 and 7 of this section shall not apply
13 to:

14 1. The possessing, transporting, selling or transferring of weapons
15 by a museum as a part of its collection or an educational institution for
16 educational purposes or by an authorized employee of such museum or
17 institution, if:

18 (a) Such museum or institution is operated by the United States or
19 this state or a political subdivision of this state, or by an organization
20 described in 26 United States Code section 170(c) as a recipient of a
21 charitable contribution; and

22 (b) Reasonable precautions are taken with respect to theft or
23 misuse of such material.

24 2. The regular and lawful transporting as merchandise; or

25 3. Acquisition by a person by operation of law such as by gift,
26 devise or descent or in a fiduciary capacity as a recipient of the
27 property or former property of an insolvent, incapacitated or deceased
28 person.

29 F. Subsection A, paragraph 3 of this section shall not apply to the
30 merchandise of an authorized manufacturer of or dealer in prohibited
31 weapons, when such material is intended to be manufactured, possessed,
32 transported, sold or transferred solely for or to a dealer, a regularly
33 constituted or appointed state, county or municipal police department or
34 police officer, a detention facility, the military service of this or
35 another state or the United States, a museum or educational institution or
36 a person specifically licensed or permitted pursuant to federal or state
37 law.

38 G. Subsection A, paragraph 10 of this section shall not apply to:

39 1. Shooting ranges or shooting events, hunting areas or similar
40 locations or activities.

41 2. A PERSON WHO IS IN A PUBLIC ESTABLISHMENT OR AT A PUBLIC EVENT
42 AND WHO POSSESSES A VALID PERMIT ISSUED PURSUANT TO SECTION 13-3112. THIS
43 PARAGRAPH DOES NOT:

44 (a) APPLY TO A PUBLIC ESTABLISHMENT OR PUBLIC EVENT THAT IS A
45 SECURED FACILITY.

1 (b) APPLY TO THE LICENSED PREMISES OF ANY PUBLIC ESTABLISHMENT OR
2 PUBLIC EVENT WITH A LICENSE ISSUED PURSUANT TO TITLE 4.

3 (c) APPLY TO A STATE, COUNTY OR MUNICIPAL JUDICIAL DEPARTMENT, LAW
4 ENFORCEMENT AGENCY OR CORRECTIONAL FACILITY.

5 (d) APPLY TO ANY AREA WHERE FIREARM POSSESSION IS PROHIBITED BY
6 FEDERAL LAW.

7 (e) APPLY TO AN EDUCATIONAL INSTITUTION AS DEFINED IN SECTION
8 13-2911.

9 (f) APPLY TO A COMMUNITY COLLEGE DISTRICT IN THIS STATE OR A
10 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

11 (g) APPLY TO FACILITIES OPERATED BY THE ARIZONA STATE HOSPITAL OR
12 FACILITIES OPERATED BY A SPECIAL HEALTH CARE DISTRICT.

13 (h) APPLY TO A PUBLIC ESTABLISHMENT THAT IS A VEHICLE OR CRAFT.

14 (i) RELIEVE OR LIMIT AN OPERATOR OF A PUBLIC ESTABLISHMENT OR A
15 SPONSOR OF A PUBLIC EVENT FROM THE REQUIREMENTS OF SECTION 13-3102.01.

16 (j) LIMIT, RESTRICT OR PROHIBIT THE RIGHTS OF A PRIVATE PROPERTY
17 OWNER, PRIVATE TENANT, PRIVATE EMPLOYER OR PRIVATE BUSINESS ENTITY.

18 H. Subsection A, paragraph 3 of this section shall not apply to a
19 weapon described in section 13-3101, subsection A, paragraph 8,
20 subdivision (a), item (v), if such weapon is possessed for the purposes of
21 preparing for, conducting or participating in lawful exhibitions,
22 demonstrations, contests or athletic events involving the use of such
23 weapon. Subsection A, paragraph 12 of this section shall not apply to a
24 weapon if such weapon is possessed for the purposes of preparing for,
25 conducting or participating in hunter or firearm safety courses.

26 I. Subsection A, paragraph 12 of this section shall not apply to
27 the possession of a:

28 1. Firearm that is not loaded and that is carried within a means of
29 transportation under the control of an adult provided that if the adult
30 leaves the means of transportation the firearm shall not be visible from
31 the outside of the means of transportation and the means of transportation
32 shall be locked.

33 2. Firearm for use on the school grounds in a program approved by a
34 school.

35 3. Firearm by a person who possesses a certificate of firearms
36 proficiency pursuant to section 13-3112, subsection T and who is
37 authorized to carry a concealed firearm pursuant to the law enforcement
38 officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States
39 Code sections 926B and 926C).

40 J. Subsection A, paragraphs 2, 3, 7 and 13 of this section shall
41 not apply to commercial nuclear generating station armed nuclear security
42 guards during the performance of official duties or during any security
43 training exercises sponsored by the commercial nuclear generating station
44 or local, state or federal authorities.

1 K. The operator of the establishment or the sponsor of the event or
2 the employee of the operator or sponsor or the agent of the sponsor,
3 including a public entity or public employee, is not liable for acts or
4 omissions pursuant to subsection A, paragraph 10 of this section unless
5 the operator, sponsor, employee or agent intended to cause injury or was
6 grossly negligent.

7 L. If a law enforcement officer contacts a person who is in
8 possession of a firearm, the law enforcement officer may take temporary
9 custody of the firearm for the duration of that contact.

10 M. Misconduct involving weapons under subsection A, paragraph 15 of
11 this section is a class 2 felony. Misconduct involving weapons under
12 subsection A, paragraph 9, 14 or 16 of this section is a class 3 felony.
13 Misconduct involving weapons under subsection A, paragraph 3, 4, 8 or 13
14 of this section is a class 4 felony. Misconduct involving weapons under
15 subsection A, paragraph 12 of this section is a class 1 misdemeanor unless
16 the violation occurs in connection with conduct that violates section
17 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section
18 13-3409 or section 13-3411, in which case the offense is a class 6 felony.
19 Misconduct involving weapons under subsection A, paragraph 1, subdivision
20 (a) of this section or subsection A, paragraph 5, 6 or 7 of this section
21 is a class 6 felony. Misconduct involving weapons under subsection A,
22 paragraph 1, subdivision (b) of this section or subsection A, paragraph 10
23 or 11 of this section is a class 1 misdemeanor. Misconduct involving
24 weapons under subsection A, paragraph 2 of this section is a class 3
25 misdemeanor.

26 N. For the purposes of this section:

27 1. "Contacted by a law enforcement officer" means a lawful traffic
28 or criminal investigation, arrest or detention or an investigatory stop by
29 a law enforcement officer that is based on reasonable suspicion that an
30 offense has been or is about to be committed.

31 2. "Public establishment" means a structure, vehicle or craft that
32 is owned, leased or operated by this state or a political subdivision of
33 this state.

34 3. "Public event" means a specifically named or sponsored event of
35 limited duration that is either conducted by a public entity or conducted
36 by a private entity with a permit or license granted by a public entity.
37 Public event does not include an unsponsored gathering of people in a
38 public place.

39 4. "School" means a public or nonpublic kindergarten program,
40 common school or high school.

41 5. "School grounds" means in, or on the grounds of, a school.

42 6. "SECURED FACILITY" MEANS EITHER OF THE FOLLOWING:

43 (a) A PUBLIC ESTABLISHMENT OR PUBLIC EVENT THAT HAS SECURITY
44 PERSONNEL AND ELECTRONIC WEAPONS SCREENING DEVICES IN PLACE AT EACH
45 ENTRANCE TO THE PUBLIC ESTABLISHMENT OR PUBLIC EVENT.

1 (b) A PUBLIC ESTABLISHMENT OR PUBLIC EVENT THAT HAS SECURITY
2 PERSONNEL WHO ELECTRONICALLY SCREEN EACH PERSON WHO ENTERS THE PUBLIC
3 ESTABLISHMENT OR PUBLIC EVENT TO DETERMINE IF THE PERSON IS CARRYING A
4 DEADLY WEAPON AND THE SECURITY PERSONNEL REQUIRE EACH PERSON WHO IS
5 CARRYING A DEADLY WEAPON TO LEAVE THE WEAPON IN POSSESSION OF THE SECURITY
6 PERSONNEL PURSUANT TO SECTION 13-3102.01 WHILE THE PERSON IS IN THE PUBLIC
7 ESTABLISHMENT OR AT THE PUBLIC EVENT.